

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

JOSEPH O. JANIKOWSKI,

Plaintiff,

vs.

CAROLYN W. COLVIN,  
Commissioner of Social Security,

Defendant.

CV 14-265-M-DLC-JCL

ORDER

**FILED**

**JAN 25 2017**

Clerk, U S District Court  
District Of Montana  
Missoula

United States Magistrate Judge Jeremiah C. Lynch entered his Findings and Recommendation on January 3, 2017, recommending granting Plaintiff Joseph Janikowski's motion for attorney fees pursuant to 42 U.S.C. § 406(b). The parties failed to timely object to the Findings and Recommendation, and so waived their right to de novo review of the record. 28 U.S.C. § 636(b)(1)(C). The Court reviews for clear error those findings and recommendations to which no party objects. *See McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted).

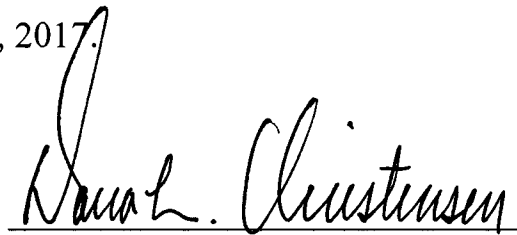
Having reviewed the Findings and Recommendation, the Court finds no clear error in Judge Lynch's conclusion that attorney fees should be awarded in the amount of \$11,288.75, less the \$1,628.00 already paid and minus the \$5,368.97 in fees previously awarded under the Equal Access to Justice Act ("EAJA"), for a total amount due of \$4,291.78.

Accordingly, IT IS ORDERED that:

(1) Judge Lynch's Findings and Recommendation (Doc. 27) are ADOPTED IN FULL.

(2) Plaintiff's Amended Motion for Attorney Fees (Doc. 23) is GRANTED. Plaintiff is awarded attorney fees under 42 U.S.C. § 406(b) in the amount of \$11,288.75, minus the \$1,628.00 already paid and the \$5,368.97 EAJA offset, for a total amount due of \$4,291.78.

Dated this 25<sup>th</sup> day of January, 2017.

  
Dana L. Christensen, Chief Judge  
United States District Court